

3.8 Knowingly Leaving a Child with a Person Required to Register as Convicted Sex Offender

63.2-100 (6) Definitions [*“Abused or neglected child” means any child less than eighteen years of age*] *Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902.*

There are three elements for this type of physical neglect. The parent has knowingly left the child alone with a person not related by blood or marriage who has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902. Some of the offenses for which registration as a violent sexual offender include:

- *Abduction with intent to defile;*
- *Rape;*
- *Forcible sodomy;*
- *Object sexual penetration;*
- *Aggravated sexual battery;*
- *Sexual battery where the perpetrator is 18 years of age or older and the victim is under the age of six;*
- *Taking indecent liberties with children; and*
- *Taking indecent liberties with child by person in custodial or supervisory relationship.*

In addition, the Code requires registration as a violent sexual offender of persons who have committed certain offenses multiple times.

To determine if the report should be validated for this type of physical neglect, the CPS worker must determine if the person is required to register as a violent sexual offender on the Virginia State Police Sex Offender and Crimes Against Minors Registry at: <http://sex-offender.vsp.virginia.gov>. This registry provides a complete list of offenses and the specific section of the Code of Virginia for which registration as a Sex Offender is required. Each registered offender’s web profile will identify the person as either a Violent Sexual Offender or Sexual Offender.

If the person is listed in the registry as a violent sex offender and the allegation is that the parent knowingly left the child alone in the care of this person, these specific allegations should be validated as physical neglect/leaving child with known sex offender.

The alleged abuser is the child's parent or other caretaker. Local departments should use current CPS policy to determine response priority and differential response type.

If the allegations do not meet this specific definition of physical neglect/leaving child with known sex offender, the local agency should evaluate the information to determine if the report should be validated as physical neglect/lack of supervision by the child's parent or guardian. A child may still be at risk of abuse or neglect by a person who is required to register on the Sex Offender and Crimes Against Minors Registry, but who is not identified as a violent sex offender or who is related to the child by blood or marriage. Local departments should use current CPS policy to determine response priority and differential response type.

If in the course of responding to the physical neglect report, there is reason to suspect the child has been sexually abused, the local worker must enter a separate CPS referral into OASIS for the sex abuse allegation, the alleged abuser and victim. Refer to CPS Policy, Part III, C.3.1, New Allegations in an Existing Referral. Sexual abuse complaints must be placed in the Investigation Track.

E. The Definition of Mental Abuse or *Mental Neglect*

1.0 Statutory Authority

Va. Code § 63.2-100. “Abused or neglected child” means any child less than eighteen years of age: Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions.

2.0 Regulatory Authority

The definition of mental abuse or *mental neglect* can be found in the Virginia Administrative Code section 22 VAC 40-705-30(D):

22 VAC 40-705-30(D). Mental abuse or neglect occurs when a caretaker creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a mental injury by other than accidental means or creates a substantial risk of impairment of mental functions.

3.0 Caretaker’s Actions or Omissions

Mental abuse or *mental neglect* includes acts or omissions by the caretaker resulting in harm to a child's psychological or emotional health or development. As a result of the caretaker's action or inaction, the child demonstrates psychological or emotional dysfunction.

Mental abuse or *mental neglect* may result from caretaker actions or inactions such as: overprotection, ignoring, indifference, rigidity, apathy, chaotic lifestyle, or other behaviors related to the caretaker's own mental problems.

Mental abuse or *mental neglect* may result from caretaker behavior, which is rejecting, chaotic, bizarre, violent, or hostile. Such behavior may include bizarre discipline. Bizarre discipline means any actions in which the caretaker uses eccentric, irrational or grossly inappropriate procedures or devices to modify the child's behavior. The consequence for the child may be physical or mental injury or the denial of basic physical necessities.

Mental abuse or *mental neglect* includes the caretaker verbally abusing the child resulting in mental dysfunction. The caretaker creates a climate of fear, bullies and frightens the child. The caretaker’s actions include patterns of criticizing, intimidating, humiliating, ridiculing, shouting or excessively guilt producing. Such behavior by the caretaker results in demonstrated dysfunction by the child.

Mental abuse *or mental neglect* may also include incidents of domestic violence when the domestic violence results in demonstrated dysfunction by the child.

4.0 Professional Documentation

A founded disposition of mental abuse *or mental neglect* must be supported with professional documentation supporting a nexus between the actions or inactions of the caretaker and the mental dysfunction demonstrated by the child. Professional documentation may include psychiatric evaluations or examinations, psychological evaluations or examinations, written summaries and letters. Professional documentation may be authored by psychiatrists, psychologists, Licensed Professional Counselors (L.P.C.) and Licensed Clinical Social Workers (L.C.S.W.), or any person acting in a professional capacity and providing therapy or services to a child or family in relationship to the alleged mental abuse. An employee of the local social services department may not serve as both the CPS investigator and the professional who documents mental abuse *or mental neglect*.

1.1 Who Are Mandated Reporters

Virginia Code § 63.2-1509(A) defines who is a mandated reporter.

Va. Code § 63.2-1509(A) Effective January 1, 2007. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately, except as hereinafter provided, to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline:

- 1. Any person licensed to practice medicine or any of the healing arts;*
- 2. Any hospital resident or intern, and any person employed in the nursing profession;*
- 3. Any person employed as a social worker;*
- 4. Any probation officer;*
- 5. Any teacher or other person employed in a public or private school, kindergarten or nursery school;*
- 6. Any person providing full-time or part-time child care for pay on a regularly planned basis;*
- 7. Any duly accredited Christian Science practitioner;*
- ~~8.~~ *7. Any mental health professional;*
- ~~9.~~ *8. Any law-enforcement officer;*
- ~~10.~~ *9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;*
- ~~11.~~ *10. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment;*
- ~~12.~~ *11. Any person associated with or employed by any private organization responsible for the care, custody or control of children; and*
- ~~13.~~ *12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1.*
- 13. Any person over the of 18 years, who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect.*

This subsection shall not apply to any regular minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church as it relates to (i) information required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) information that would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court.

- 14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility for public assistance.*

The individuals listed previously must make a report of any suspected abuse or neglect that they learn of in their professional capacity.

1.4 **Mandated Reporter Must Disclose All Relevant Information Even if Not The Complainant**

Va. Code § 63.2-1509(A). Any person required to make the report... shall disclose all information which is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department of social services, which is the agency of jurisdiction, any records or reports which document the basis for the report....

All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232(g)). Provision of such information, records and reports by a health care provider shall not be prohibited by § [8.01-399](#).

When a mandated reporter makes a report of suspected abuse or neglect, the reporter must disclose all the information that is the basis of the report to the local department. This includes any records or reports documenting the basis of the allegation.

All mandated reporters, even if they are not the complainant, shall cooperate with the local department and shall make related information, records and reports available to the local department for the purpose of validating a CPS referral and for completing a CPS response unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232(g)). Provision of such information, records and reports by a health care provider shall not be prohibited by § [8.01-399](#).

Although obtaining parental consent to obtain information is always preferable, their consent is not required for the release of the information for the purpose of validating a referral or completing an investigation or family assessment.

Part III, Complaints and Reports
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Investigation or Family Assessment

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2.5 Exception to Initiating or Completing Investigation or Family Assessment

Va. Code § 63.2 -1505(B)2. [If the local department responds to the report or complaint by conducting an investigation, the local department shall] complete a report and transmit it forthwith to the Department, except that no such report shall be transmitted in cases in which the cause to suspect abuse or neglect is one of the factors specified in subsection B of §63.2-1509 and the mother sought substance abuse counseling or treatment prior to the child's birth;

Any investigation of a complaint alleging abuse or neglect made pursuant to B of § 63.2-1509 of the Virginia Code, cannot be founded or “transmitted” to the Department if the mother of the infant sought substance abuse counseling or treatment prior to the infant’s birth, and there are no additional allegations. It is incumbent upon the mother of the infant to present evidence that she sought or gained substance abuse counseling or treatment prior to the child’s birth.

Even if the mother sought treatment, the local department should continue the investigation *or family assessment* if there is an additional allegation, or upon first contact, evidence, other than the exposure to a controlled substance, that the infant is abused or neglected or is experiencing a threat of harm.

A family assessment of a complaint alleging abuse or neglect made pursuant to B of § 63.2-1506 of the Virginia Code can proceed upon the fact that the report was valid and the need for services to remedy or prevent child maltreatment is appropriate.

2.1 Out of State Jurisdiction

A local department shall not assume jurisdiction of an investigation or family assessment if the alleged abuse or neglect occurred in another state and the alleged abuser does not reside in Virginia, even if the alleged victim resides in Virginia at the time of the report. A local department should report the suspected abuse or neglect to child protective services in the state where the abuse or neglect occurred. If the other state requests assistance in conducting the investigation or family assessment, the local department should comply. If services are needed for the child or family, the local department may open the case for services.

~~A local department may assume jurisdiction of an investigation where the alleged abuse or neglect occurred in another state, but the alleged victim child resides in Virginia. Jurisdiction to conduct an investigation of a complaint or report of abuse or neglect is not limited to abuse or neglect occurring in Virginia. If a child residing in Virginia is abused or neglected, the local department may intervene and conduct a family assessment or an investigation and provide any needed services. If the local department does assume jurisdiction where the alleged abuse or neglect occurred out of state, the local department may request the other state to assist with the family assessment or investigation.~~

Part III, Complaints and Reports

Section G, Screening Complaints for Priority and Initial Response

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G. Screening Complaints for Priority *and Initial Response*

~~Local department shall consider all available information in determining the need for assessing a complaint as a high priority. Local departments shall set local guidelines for a level 1, 2, and 3 response. Response Level 1 is highest urgency, Response Level 2 is moderate urgency, and Response Level 3 is lowest urgency. Best practice indicates that reports should be responded to as soon as possible, and no response should wait longer than working five days from the date the report is accepted.~~

The response priority decision is guided by the severity of the report and the urgency for response. Local departments shall consider all available information to determine the response priority level for all investigations or family assessments that have been accepted as valid. Information gathered by agency staff must be analyzed to assess the urgency for response. Each of the three response levels includes a time frame for the local department to initiate the investigation or family assessment after the report has been accepted as valid:

*Response 1 (R1): as soon as possible within 24 hours
Response 2 (R2) as soon as possible within 48 hours
Response 3 (R3) as soon as possible within five working days*

Initial response is the first face to face contact or phone contact or attempted contact *with the victim, alleged abuser or collateral* after the referral is validated. Initial response does not include OASIS or other data base searches or agency supervisory consultation.

~~The following information should be taken into account in setting local guidelines.~~
22 VAC 40-705-50(G) provides the regulatory framework for the screening of complaints and reports for priority:

Valid complaints or reports shall be screened for high priority based on the following:

- 1. The immediate danger to the child;**
- 2. The severity of the type of abuse or neglect alleged;**
- 3. The age of the child;**
- 4. The circumstances surrounding the alleged abuse or neglect;**
- 5. The physical and mental condition of the child; and**
- 6. Reports made by mandated reporters.**

Appendix B contains additional guidance to help determine the appropriate response priority for CPS reports through the use of Response Priority Decision Trees. This tool provides a structure to analyze the report information to determine a response priority level. The decision trees pose a series of questions depending on the type of alleged maltreatment. Answers to the each questions consisting of "yes" or "no" responses will lead to other questions and ultimately a recommended response priority level. If the response priority tree is used to determine the response priority

level, it is important to consider any additional information or concerns that may override the recommended response priority.

C. The Initial Safety Assessment & Safety Plan

22 VAC 40-705-110(A). In both family assessments and investigations the child protective services worker shall conduct an initial assessment of the child's circumstances and threat of danger or harm, and where appropriate shall make a safety plan to provide for the protection of the child.

The purpose of initial safety assessment and plan is to help assess whether any children are currently in immediate danger of serious physical harm that may require a protecting intervention, and to determine what interventions should be maintained or initiated to provide appropriate protection for the children. The safety assessment is both a process and documentation. It is a process throughout the investigation or family assessment and continues until the case is closed. Documentation of the safety assessment by the worker is created to reflect the safety status of the children at the initial contact and throughout the investigation or family assessment.

The safety assessment provides information concerning the threat of immediate harm/maltreatment to a child and it guides the decision about whether the child may remain in the home with no intervention, may remain in the home with safety interventions in place, or must be protectively placed outside the home. ~~It is critical that the CPS worker conducting the family assessment immediately make an initial safety assessment of the circumstances surrounding the allegation of abuse or neglect and identify the immediate safety needs of the child and family.~~

1.0 Immediate Child Safety and Family Needs

CPS is responsible for assessing and working to assure safety of all children who are reported to have been abused or neglected. Thus, one of the first tasks of the CPS worker is to determine the degree to which the child or children are secure from harm or threat of serious harm now or in the immediate future. Safety must be determined for each child and the safety conclusion based on the least safe if there is more than one child in the family.

1.1 Assessment of Immediate Danger to the Child

The first specific *safety* assessment focuses on the child and the child's immediate needs. Factors to consider when assessing the immediate situation of the child include:

- a. Whether the child has sustained a mental or physical injury warranting immediate attention or care;
- b. Whether an emergency or crisis situation exists meriting immediate action to protect the child;
- c. Whether the child is at risk of serious abuse or neglect in the near

future.

1.2 Assessment of Immediate Needs of the Family

After assessing the immediate *safety* needs of the child, the worker must evaluate the immediate needs of the family. Factors to consider include:

- a. If the child has been injured or harmed, whether the family has the capabilities or capacity to protect the child from further harm;
- b. Whether an emergency or crisis situation exists and the family's ability to cope;
- c. Whether any other family members are at risk of harm or danger;
- d. What are the family's capabilities to ensure the safety of the child or children in the *near* future.

2.0 Immediate Child Safety & Family Needs Assessment

To ensure that the safety of the child is appropriately assessed, the local department must complete an initial safety assessment upon first contact related to the report. Safety can be reassessed any time there is a change in the family situation, but it is only required to be documented as the initial safety assessment once in the Department's information system. Any new safety information and revised safety decision should be included in the automated Family Assessment record.

A checklist is provided in this chapter to assist with assessing safety. The purpose of the "Initial Safety Assessment" checklist is to ensure that any concerns related to the child's safety or health are adequately assessed by the local department and documented in the record. The "Initial Safety Assessment" is a checklist of safety factors, which, if present and not balanced by mitigating circumstances or protective factors, indicate the local department will need to take additional action to ensure the health and safety of the child. The form can be duplicated from Appendix B E, downloaded from the intranet or ordered as carbonized form # 032-02-034.

Elements of safety to be considered along with the safety factors listed on the checklist: THREAT, HARM, SEVERITY, VULNERABILITY, AND IMMINENCE.

These elements provide a context for the safety factors. For example, a 3 year old child may be more vulnerable and more threatened with severe harm by an out of control parent than a 13 year old, but even the 3 year old may be deemed safe if the parent has just been taken away by the police and a responsible adult is available.

Safety Factors that indicate a threat of harm are listed here as they are on the form in Appendix B E. These factors are generally written in behavioral terms. These terms generally do not describe conditions. For example, if the initial contact finds the only caretaker in the home is passed out due to a drug overdose, the first factor under the A list applies. The safety issue or factor is that the parent cannot provide care for the child; the underlying cause is the drug abuse.

E. Mandated Contacts

Title VI of the Civil Rights Act of 1964 prohibits recipients of federal funding from discriminating against individuals on the basis of race, color, or national origin. This has been interpreted to require meaningful access to information and services for those persons with limited English proficiency. Agencies receiving federal funding are mandated to comply with these requirements. The Department Policy is available on the web and applies to the CPS Program:

http://www.vdssonline.dss.state.va.us/news/2005/11/LEP_DSS_policy_103105.pdf

The Administrative Code (22 VAC 40-705-80(A)(1-3)) requires certain contacts and observations to occur, thereby supporting a thorough and objective family assessment.

During the course of the family assessment, the child protective services (CPS) worker shall make and record the following contacts and observations.

- 1. The child protective services worker shall conduct a face-to-face interview with and observation of the alleged victim child and siblings.**
- 2. The child protective services worker shall conduct a face-to-face interview with the alleged victim child's parents or guardians and/or any caretaker named in the report.**
- 3. The child protective services worker shall observe the family environment, contact pertinent collaterals, and review pertinent records in consultation with the family.**

The CPS worker must document the contacts required by regulation. This section of the Administrative Code (22 VAC 40-705-80(A)) does not take into consideration that a mandated contact may not occur for various reasons. It is essential that the CPS worker document all contacts made during the family assessment in OASIS. It is equally important that the worker document reasons why any of the mandated contacts or observations were not made or completed. (For example, if three phone messages were left or two home visits made with no one answering the door, those attempts should be noted.) The OASIS contact screen allows for documentation of several contacts at one time, such as a meeting with the whole family.

Part V, Investigation

Section A, Additional Actions to be taken when Child is Removed

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3.6 ~~Additional Actions to be Taken When Child is Removed~~ *Additional Actions to be Taken When CPS Has Assumed Emergency Custody of the Child*

- a. The local department must assume responsibility for conducting an immediate investigation of the situation.
- b. The local department must ensure that the child is placed in an appropriate *emergency, temporary, or permanent* setting which will assure the child's safety. ~~A child may be placed in the home of a relative or family friend if the worker, in consultation with the supervisor, determines that such placement will be in the child's best interest and the placement is in compliance with agency-approved provider standards.~~
- c. *Section 3.6.1 outlines procedures for CPS workers to follow when making an emergency placement for the child when an agency approved home is not available. CPS workers should consult with the agency's foster care worker or foster home finder.*
~~Agency Approved Provider Standards permit emergency approval of such placements for up to 30 days.~~

~~For procedures to approve an emergency placement refer to Volume VII, Section I, Chapter I of the Social Services Manual. The worker must document in the case record why such placement was not used if one was available.~~

3.61. Searches Required for Emergency Placement

§ [63.2-901.1](#). *Criminal history and central registry check for placements of children.*

A. Each local board and licensed child-placing agency shall obtain and consider, in accordance with regulations adopted by the Board, criminal history record information from the Central Criminal Records Exchange and the Federal Bureau of Investigation through the Central Criminal Records Exchange and the results of a search of the child abuse and neglect central registry of any individual with whom the local board or agency is considering placing a child on an emergency, temporary or permanent basis, including the birth parent of a child in foster care placement. The local board or agency may also obtain such a criminal records or registry search on all adult household members residing in the home of the individual with whom the child is to be placed. The local board or child placing agency shall require the individual for whom a criminal history record information check was requested to submit to fingerprinting and provide personal descriptive information to be forwarded along with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal record history information. Such state criminal records or registry search shall be at no cost to the individual. The local board or child placing agency will be required to pay for the national fingerprint criminal history record check or may require such individual to pay the cost of the fingerprinting or the national fingerprinting criminal history record check or both. If the placement is not made because of information obtained through a national fingerprint criminal history or registry search or both, the local board or agency, upon request, shall provide a copy of the information obtained to the individual who is the subject of the search. Further dissemination of the information provided to the local board or agency is prohibited.

B. In emergency circumstances, each local board or licensed child-placing agency may obtain, from a criminal justice agency, criminal history record information from the Central Criminal Records Exchange and the Federal Bureau of Investigation through the Virginia Criminal Information Network (VCIN) for the criminal records search authorized by this section. Within three days of placing a child, the local board or child placing agency shall require the individual for whom a criminal history record information check was requested to submit to fingerprinting and provide personal descriptive information to be forwarded along with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal record history information. The child shall be removed from the home immediately if any adult resident fails to provide such fingerprints and written permission to perform a national criminal history record check when requested. Such state criminal records or registry search shall be at no cost to the individual. The local board or child placing agency will be required to pay for the national fingerprint criminal history record check or may require such individual to pay the cost of the fingerprinting or the national fingerprint criminal history record check or both.

If an agency has exercised its authority to take emergency custody of a child, the *child may be placed in the home of a relative or family friend if the CPS worker, in consultation with the supervisor, determines that such placement will be in the child's best interest and that the appropriate procedures have been followed to make an emergency placement. As soon as possible after the emergency placement, the CPS worker should consult with the foster care worker or foster home finder to determine what post emergency placement procedures must be followed if the child is to remain in the placement longer than three days.*

~~In emergency situations, where the criminal background check cannot be retrieved due to VCIN system-related problems or concurrent police emergencies, the local worker must get a signed statement from each adult present in the home that indicates whether or not any criminal record exists and, if so, the nature of the record. It is the local worker's responsibility to retrieve the VCIN criminal background check results as soon as possible, but no later than eight hours after placement.~~

~~Local workers shall also search the Central Registry for child abuse and neglect information by calling the State Hotline and providing the password from the Matrix. The completed Child Protective Services Release of Information Form (032-02-151/1) must then be submitted through the pouch to the Central Registry at Virginia Department of Social Services as soon as possible.~~

3.6.2 Required Background Checks on Individuals with Whom an Agency May Place a Child on an Emergency Basis and Post Emergency Placement Procedures

~~Complete Background Checks on Individuals With Whom an Agency May Place a Child On Emergency Basis~~

If the agency has assumed emergency custody of the child, the *CPS worker must complete a criminal background check and child abuse/neglect central registry search on each adult in the home with whom the CPS worker is considering placing a child on an emergency basis. This includes:*

- a. Any adult with whom the agency considers placing a child including a relative, neighbor, or friend of the child and/or parent.*
- b. Other adult household members, including any paramour and any relatives, who reside in the home.*

Each local board or licensed child-placing agency may obtain, from a criminal justice agency, criminal history record information from the Central Criminal Records Exchange and the Federal Bureau of Investigation through the Virginia Criminal Information Network (VCIN) for the criminal records search authorized by this section.

In emergency situations, where both the central registry search and the criminal background check cannot be completed, the local worker must get a signed statement from each adult in the home that indicates whether or not any criminal record exists and, if so, the nature of the record. It is the CPS worker's responsibility to complete both the central registry search and VCIN criminal background check as soon as possible, but no later than eight hours after placement.

The child's safety is the primary consideration in deciding whether to place the child on an emergency basis with a relative, neighbor or friend. The CPS worker, in consultation with the supervisor, shall evaluate the results of the criminal background and central registry searches. If the information received indicates a criminal conviction for anyone in the household, the worker and supervisor may refer to Division of Family Services Generic Policy, Chapter I, Standards and Regulations for Agency-Approved Providers http://localagency.dss.virginia.gov/divisions/dfs/genericpolicy_chapter_i.pdf for guidance on whether the criminal information prohibits placement of the child.

The CPS worker shall document the search results and placement decision in OASIS.

Post Emergency Placement Procedures: *Within three days of the emergency placement, the CPS workers should immediately consult with the foster care worker or foster home finder to determine what additional procedures the emergency placement home may need to complete if the child remains in the agency's custody and in the emergency placement. Refer to Broadcast 4003, dated November 17, 2006 for guidance to local departments of social services regarding the federal requirements for criminal background checks and child abuse and neglect central registry searches for prospective foster and adoptive parents.*

- **Criminal Background Checks:** *The Code of Virginia requires that within three days of placing a child, the local board or child placing agency shall require the individual for whom a criminal history record information check was requested to submit to fingerprinting and provide personal descriptive information to be forwarded along with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal record history information.*

The local board or child placing agency will be required to pay for the national fingerprint criminal history record check or may require such individual to pay the cost of the fingerprinting or the national fingerprint criminal history record check or both.

The child shall be removed from the home immediately if any adult resident fails to provide such fingerprints and written permission to perform a national criminal history record check when requested.

Local departments are responsible for developing a procedure and method to collect this information and are encouraged to consult with local law enforcement in setting up these procedures.

- *Central Registry Searches:* *The CPS worker should immediately consult with the foster care worker or foster home finder to determine what additional procedures the emergency placement home may need to complete if the child remains in the agency's custody and in the emergency placement. The completed Child Protective Services Release of Information Form (032-02-0151-06) must be submitted to the central registry at Virginia Department of Social Services within three working days if the child is to remain in the emergency placement home.*

The child shall be removed from the home immediately if any resident age 18 or older fails to submit the central registry search form.

~~The local department must complete criminal background and child abuse/neglect Central Registry checks on any individual with whom the agency has assumed emergency custody of a child and is considering placing a child on an emergency basis, including:~~

- ~~a. Any adult with whom the agency considers placing a child in an emergency, such as under the 72-hour removal authority, including a relative, neighbor, or friend of the child and/or parent.~~
- ~~b. Other adult household members, including any paramour and any relatives, who reside in the home.~~

~~3.6.3 When to Conduct Background Searches~~

~~The local department must complete criminal background and child abuse/neglect Central Registry checks on any individual with whom the agency has assumed emergency custody of a child and is considering placing a child on an emergency basis, including:~~

- ~~a. Any adult with whom the agency considers placing a child in an emergency, such as under the 72-hour removal authority, including a relative, neighbor, or friend of the child and/or parent.~~
- ~~b. Other adult household members, including any paramour and any relatives, who reside in the home.~~
- ~~c. When a child is moved to an emergency, non-emergency, or temporary placement that is not already approved.~~

C. The Initial Safety Assessment & Safety Plan

22 VAC 40-705-110(A). In both family assessments and investigations the child protective services worker shall conduct an initial assessment of the child's circumstances and threat of danger or harm, and where appropriate shall make a safety plan to provide for the protection of the child.

The purpose of initial safety assessment and plan is to help assess whether any children are currently in immediate danger of serious physical harm that may require a protecting intervention, and to determine what interventions should be maintained or initiated to provide appropriate protection for the children. The safety assessment is both a process and documentation. It is a process throughout the investigation or family assessment and continues until the case is closed. Documentation of the safety assessment by the worker is created to reflect the safety status of the children at the initial contact and throughout the investigation or family assessment.

The safety assessment provides information concerning the threat of immediate harm/maltreatment to a child and it guides the decision about whether the child may remain in the home with no intervention, may remain in the home with safety interventions in place, or must be protectively placed outside the home. ~~It is critical that the CPS worker conducting the family assessment immediately make an initial safety assessment of the circumstances surrounding the allegation of abuse or neglect and identify the immediate safety needs of the child and family.~~

1.0 Immediate Child Safety and Family Needs

CPS is responsible for assessing and working to assure safety of all children who are reported to have been abused or neglected. Thus, one of the first tasks of the CPS worker is to determine the degree to which the child or children are secure from harm or threat of serious harm now or in the immediate future. Safety must be determined for each child and the safety conclusion based on the least safe if there is more than one child in the family.

1.1 Assessment of Immediate Danger to the Child

The first specific *safety* assessment focuses on the child and the child's immediate needs. Factors to consider when assessing the immediate situation of the child include:

- a. Whether the child has sustained a mental or physical injury warranting immediate attention or care;
- b. Whether an emergency or crisis situation exists meriting immediate action to protect the child;
- c. Whether the child is at risk of serious abuse or neglect in the near future.

1.2 Assessment of Immediate Needs of the Family

After assessing the immediate *safety* needs of the child, the worker must evaluate the immediate needs of the family. Factors to consider include:

- a. If the child has been injured or harmed, whether the family has the capabilities or capacity to protect the child from further harm;
- b. Whether an emergency or crisis situation exists and the family's ability to cope;
- c. Whether any other family members are at risk of harm or danger;
- d. What are the family's capabilities to ensure the safety of the child or children in the *near* future.

2.0 Immediate Child Safety & Family Needs Assessment

To ensure that the safety of the child is appropriately assessed, the local department must complete an initial safety assessment upon first contact related to the report. Safety can be reassessed any time there is a change in the family situation, but it is only required to be documented as the initial safety assessment once in the Department's information system. Any new safety information and revised safety decision should be included in the automated Family Assessment record.

A checklist is provided in this chapter to assist with assessing safety. The purpose of the "Initial Safety Assessment" checklist is to ensure that any concerns related to the child's safety or health are adequately assessed by the local department and documented in the record. The "Initial Safety Assessment" is a checklist of safety factors, which, if present and not balanced by mitigating circumstances or protective factors, indicate the local department will need to take additional action to ensure the health and safety of the child. The form can be duplicated from Appendix B E, downloaded from the intranet or ordered as carbonized form # 032-02-034.

Elements of safety to be considered along with the safety factors listed on the checklist: THREAT, HARM, SEVERITY, VULNERABILITY, AND IMMINENCE.

These elements provide a context for the safety factors. For example, a 3 year old child may be more vulnerable and more threatened with severe harm by an out of control parent than a 13 year old, but even the 3 year old may be deemed safe if the parent has just been taken away by the police and a responsible adult is available.

Safety Factors that indicate a threat of harm are listed here as they are on the form in Appendix B E. These factors are generally written in behavioral terms. These terms generally do not describe conditions. For example, if the initial contact finds the only caretaker in the home is passed out due to a drug overdose, the first factor under the A list applies. The safety issue or factor is that the parent cannot provide care for the child; the underlying cause is the drug abuse.

E. Mandated Contacts

Title VI of the Civil Rights Act of 1964 prohibits recipients of federal funding from discriminating against individuals on the basis of race, color, or national origin. This has been interpreted to require meaningful access to information and services for those persons with limited English proficiency. Agencies receiving federal funding are mandated to comply with these requirements. The Department Policy is available on the web and applies to the CPS Program:

http://www.vdssonline.dss.state.va.us/news/2005/11/LEP_DSS_policy_103105.pdf

The Administrative Code (22 VAC 40-705-80(B)) requires certain contacts and observations to occur, thereby ensuring a thorough and fair investigation.

22 VAC 40-705-80(B). During the course of the investigation, the child protective services (CPS) worker shall make and record in writing in the state automated system the following contacts and observations. When any of these contacts or observations is not made, the CPS worker shall record in writing why the specific contact or observation was not made.

The investigating CPS worker must document these contacts in the investigative narrative. This section of the Administrative Code (22 VAC 40-705-80(B)) does take into consideration that a mandated contact may not occur for various reasons. Therefore, it is essential that the investigating CPS worker document all contacts made during the investigation. It is equally important that the investigating worker document reasons why any of the mandated contacts or observations were not made or completed.

1.0 Interview With the Alleged Victim Child

22 VAC 40-705-80(B)(1). The child protective services worker shall conduct a face-to-face interview with and observation of the alleged victim child. All interviews with alleged victim children must be audio tape recorded ...

22 VAC 40-705-80(B)(1) contains two essential investigation requirements. The first requirement is that the CPS worker interviews the alleged victim child in person. The second requirement is that all interviews with alleged victim children must be audio tape recorded during the investigation. For purposes of the policy manual, each requirement is addressed separately.

1.1 Face to Face Interview with the Alleged Victim Child

The CPS worker must conduct a *at least one* face to face interview with the alleged victim child. During the interview the CPS worker should

inform the child about the investigation and what will occur during the investigation. The CPS worker should observe the child and document the child's recollection and perception of the allegations. The CPS worker should note the child's emotional and physical condition (including any injury). The CPS worker should learn about the child's needs and capabilities for the purposes of risk assessment and service planning.

Some of this information may be obtained during the CPS worker's observation of victim interviews conducted by other members of the investigative team including, but not limited to, law enforcement officers, forensic nurses, or physicians. The CPS worker should review any taped victim interviews to determine if additional interviews are necessary to document the child's allegations to comply with CPS policy.

3.0 Interview with Alleged Abuser or Neglector

22 VAC 40-705-80(B)(2). The child protective services (CPS) worker shall conduct a face-to-face interview with the alleged abuser and/or neglector.

The CPS worker must conduct a face-to-face interview with the alleged abuser or neglector. The alleged abuser or neglector must be informed of the allegations and the investigative process. The CPS worker must document the alleged abuser or neglector responses and knowledge about the allegations.

Some of this information may be obtained during the CPS worker's observation of victim interviews conducted by other members of the investigative team, including but not limited to law enforcement officers, forensic nurses, or physicians. The CPS worker should review any taped victim interviews to determine if additional interviews are necessary to document the child's allegations to comply with CPS policy.

For the purposes of risk assessment and service planning, the CPS worker should identify the alleged abuser or neglector's needs and capabilities.

If the alleged abuser or neglector refuses to be interviewed, the CPS worker must inform the alleged abuser or neglector that the investigation must continue and a disposition will be made.

C. Unfounded Dispositions

1.0 Reporting Unfounded Dispositions

22 VAC 40-705-130(A). Pursuant to § 63.2-1514 of the Code of Virginia, the local department shall report all unfounded case dispositions to the child abuse and neglect information system when disposition is made.

2.0 Retaining Record of Unfounded Dispositions

Va. Code § 63.2-1514(B). The record of unfounded investigations and complaints and reports determined to be not valid shall be purged one year after the date of the complaint or report if there are no subsequent complaints or reports regarding the same child or the person who is the subject of the complaint or report in that one year. The local department shall retain such records for an additional period of up to two years if requested in writing by the person who is the subject of such complaint or report.

22 VAC 40-705-130(A)(1). The Department shall retain unfounded complaints and/or reports in the child abuse and neglect information system to provide local departments with information regarding prior investigations.

22 VAC 40-705-130(A)(2). This record shall be kept separate from the Central Registry and accessible only to the Department and to local departments.

3.0 Purge Unfounded Case After One Year

22 VAC 40-705-130(A)(3). The record of the unfounded case or family assessment shall be purged one year after the date of the complaint or report if there are no subsequent founded or unfounded complaints and/or reports regarding the individual against whom allegations of abuse and/or neglect were made or regarding the same child in that one year.

4.0 Retain Record if Subsequent Complaints Arise

22 VAC 40-705-130(A)(5). If the individual against whom allegations of abuse and/or neglect were made or if the same child is involved in subsequent complaints and/or reports, the information from all complaints and/or reports shall be maintained until the last purge date has been reached.

5.0 Alleged Abuser or Neglector May Request that Record be Retained

22 VAC 40-705-130(A)(6). The individual against whom unfounded allegations of abuse and/or neglect were made may request in writing that the local department retain the record for an additional period of up to two years.

6.0 Record Shall be Purged Upon Court Order

22 VAC 40-705-130(A)(7). The individual against whom allegations of abuse and/or neglect were made may request in writing that both the local department and the department shall immediately purge the record after a court rules that the report was made in bad faith or with malicious intent pursuant to § 63.2-1514 of the Code of Virginia.

D. Completed Family Assessments

Va. Code § 63.2-1514(B). The record of family assessments shall be purged three years after the date of the complaint or report if there are no subsequent complaints or reports regarding the same child or the person who is the subject of the report in that three year period.

22 VAC 40-705(A)4. The record of the family assessment shall be purged three years after the date of the complaint or report if there are no subsequent complaints and/or reports regarding the individual against whom allegations of abuse and/or neglect were made or regarding the same child in those three years.

The family assessment record is required to be retained for three years from the date of the report.

D. Non Designated Out of Family Investigations

If the out of family setting is not covered under Designated Out of Family, but the setting is one in which an outside agent approves the setting and places children there (including but not limited to child placing agencies and locally approved foster homes, family day homes and in-home providers) the following procedures apply in addition to all policy requirements, authorities and responsibilities set out in this chapter for all child protective services investigations.

1.0 Contact Approval Agent

Once the identity of the approval agent is known, the worker shall inform the approval agent of the nature of the complaint, and shall continue to apprise the agent of the progress of the investigation as needed, providing sufficient information for the agent to make interim placement decisions and ensure the safety of the children in the setting. The worker shall inform the lead caretaker in the setting that this notification has been made and that the outcome will be shared with the approval agent. These notifications shall be documented in the case narrative.

1.1 Identifying Approval Agent

For a foster home approved by a child placing agency, the approval agent is the child placing agency; for a locally approved foster home, family day home, or in-home provider, the approval agent is the local department of social services which approved the setting or provider.

2.0 Approval Agent May Assist Local Department

The approval agent, or a designated staff member, may assist the CPS worker with facilitating the investigation. The approval agent, or designated staff member, would not be acting as a co-investigator. The CPS worker may request that the approval agent or staff assist with gaining information, accessing parties, or avoiding duplication of interviews. The approval agent may also be a resource to provide services or assistance needed to ensure the safety of any remaining children.

3.0 Notifying Approval Agent of Investigation Findings

At the conclusion of the investigation, the local department must notify the approval agent verbally or in writing of the disposition and significant findings. Enough information should be shared so that the agent can make decisions about current and future placements and can know what services they should be providing to the caretaker.

4.0 Additional Qualifications for Non Designated Out of Family Investigations

All staff conducting non designated out of family investigations must be qualified according to Department requirements for skills and policy training.

A. The Local Conference

Title VI of the Civil Rights Act of 1964 prohibits recipients of federal funding from discriminating against individuals on the basis of race, color, or national origin. This has been interpreted to require meaningful access to information and services for those persons with limited English proficiency. Agencies receiving federal funding are mandated to comply with these requirements. The Department Policy is available on the web and applies to the CPS Program:

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The first level of the appeal process is the local conference. Va. Code § 63.2-1526(A) provides the authority for the local department to conduct the local conference.